

SEALED BY ORDER
OF COURT

APR 06 2017

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

vs.

CR 17 00168

ROSS COLBY

LHK

HRL

INDICTMENT

COUNT ONE: (18 U.S.C. §§ 1030(a)(5)(A) & (c)(4)(b)(i) - Intentional Damage to a Protected Computer)

COUNT TWO: (18 U.S.C. §§ 1030(a)(5)(A) & (c)(4)(b)(ii) – Attempted Damage to a Protected Computer)

COUNTS THREE THROUGH FIVE: (18 U.S.C. § 1030(a)(2)(C) – Misdemeanor Computer Intrusion)

A true bill.

Chris Dukes

Foreperson

Filed in open court this

6th

day of Apr

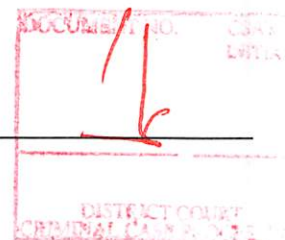
A.D. 2017

[Signature]

United States Magistrate Judge

Bail. \$

no bail arrest warrant



SEALED BY ORDER
OF COURT

FILED

APR 06 2017

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LHK

HRL

CR 17 00168

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROSS COLBY,

Defendant.

No.

Violations: Title 18, United States Code,
Sections 1030(a)(5)(A) & (c)(4)(B)(i) – Intentional
Damage to a Protected Computer; Title 18, United
States Code, Sections 1030(a)(5)(A) & (c)(4)(B)(ii) –
Attempted Damage to a Protected Computer;
Title 18, United States Code, Section 1030(a)(2)(C) -
Obtaining Information from a Protected Computer
Without Authorization (Class A Misdemeanor)

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. Embarcadero Media (“Embarcadero”) was an online, private newspaper publisher headquartered in Palo Alto, California and the parent company to numerous publications, including the Palo Alto Weekly, The Almanac of Menlo Park, the Mountain View Voice, the Pleasanton Weekly, and Palo Alto online.

2. Embarcadero used Google, an Internet service provider headquartered in Mountain View, California, to host its corporate email accounts. Google maintained its data centers in various locations throughout the United States, Europe, and Asia.

INDICTMENT

3. Embarcadero used GoDaddy, an Internet domain registrar headquartered in Scottsdale, Arizona, to register and maintain the domain names for its online publications and email address.

4. Defendant ROSS COLBY was an individual residing in San Francisco, California.

COUNT ONE: (18 U.S.C. §§ 1030(a)(5)(A) & (c)(4)(B)(i) - Intentional Damage to a Protected Computer)

5. Paragraphs One through Four are re-alleged and incorporated as if fully set forth here.

6. On or about September 17, 2015, in the Northern District of California and elsewhere, the defendant,

ROSS COLBY,

knowingly caused the transmission of a program, information, code, and command, and, as a result of such conduct, intentionally caused damage without authorization to protected computers of Embarcadero, and caused loss to 1 or more persons during a 1-year period affecting protected computers aggregating at least \$5,000 in value, to wit: by changing Embarcadero's mail exchange records at GoDaddy.com in order to redirect their corporate email.

All in violation of Title 18, United States Code, Sections 1030(a)(5)(A) and (c)(4)(B)(i).

COUNT TWO: (18 U.S.C. §§ 1030(a)(5)(A) & (c)(4)(B)(ii) – Attempted Damage to a Protected Computer)

7. Paragraphs One through Four are re-alleged and incorporated as if fully set forth here.

8. On or about September 17, 2015, in the Northern District of California and elsewhere, the defendant,

ROSS COLBY,

knowingly caused the transmission of a program, information, code, and command, and, as a result of such conduct, intentionally caused damage without authorization to protected computers of Embarcadero and attempted to do so, to wit: by accessing Embarcadero's account at GoDaddy.com and canceling the following domain names: AlmanacNews.com, PaloAltoOnline.com, EmbarcaderoMediaGroup.com, and SupportLocalJournalism.com.

All in violation of Title 18, United States Code, Sections 1030(a)(5)(A) and (c)(4)(B)(ii).

COUNTS THREE THROUGH FIVE: (18 U.S.C. § 1030(a)(2)(C) – Misdemeanor Computer Intrusion)

9. Paragraphs One through Four are re-alleged and incorporated as if fully set forth here.

10. On or about the dates set forth below, in the Northern District of California and elsewhere, the defendant,

ROSS COLBY,

intentionally accessed a protected computer without authorization, and thereby obtained information; that is, the defendant used the Internet to access the contents of a corporate email account belonging to an Embarcadero employee:

| Count | Date | Employee |
|-------|---------------|----------|
| Three | July 23, 2015 | C.T. |
| Four | July 24, 2015 | C.T. |
| Five | July 25, 2015 | C.T. |

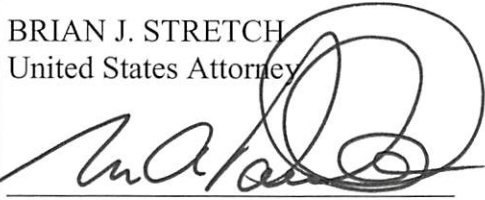
All in violation of Title 18, United States Code, Section 1030(a)(2)(C), a Class A Misdemeanor.


DATED: April 6, 2017

A TRUE BILL.


FOREPERSON

BRIAN J. STRETCH
United States Attorney


MATTHEW A. PARRELLA
Chief, CHIP Unit

(Approved as to form: )

AUSA SUSAN KNIGHT

AO 257 (Rev. 6/78)

E-filing

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

COUNT ONE: (18 U.S.C. §§ 1030(a)(5)(A) & (c)(4)(b)(i) - Intentional Damage to a Protected Computer)

COUNT TWO: (18 U.S.C. §§ 1030(a)(5)(A) & (c)(4)(b)(ii) - Attempted Damage to a Protected Computer)

COUNTS THREE THROUGH FIVE: (18 U.S.C. § 1030(a)(2)(C) - Misdemeanor Computer Intrusion)

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: SEE ATTACHMENT

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

DEFENDANT - U.S.

ROSS COLBY

DISTRICT COURT NUMBER

 SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE
DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) ☐ If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

FBI Anthony Frazier and Michael Hinton

☐ person is awaiting trial in another Federal or State Court, give name of court☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District
☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

SHOW DOCKET NO.

☐ U.S. ATTORNEY ☐ DEFENSE
☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form BRIAN J. STRETCH

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

SUSAN KNIGHT

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**☐ SUMMONS ☐ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

ATTACHMENT

Count One: 10 years imprisonment, \$250,000.00 fine, 3 years supervised release, \$100 special assessment.

Count Two: 10 years imprisonment, \$250,000.00 fine, 3 years supervised release, \$100 special assessment.

Counts Three to Five: 1 year imprisonment \$ 100,000.00 fine 1 year supervised release, \$25 special assessment.